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REFORMING THE U.S. SECURITY ASSISTANCE EXPORT PROCESS TO BUILD EXISTING CAPABILITIES

December 2015

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**REFORMING THE U.S. SECURITY ASSISTANCE EXPORT PROCESS TO
BUILD EXISTING CAPABILITIES**

John E. Stokes, Jr.

Submitted in partial fulfillment of the requirements for the degree of

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ABSTRACT

Security assistance is a key element in the formulation of foreign policy in the United States. The Department of State, the Department of Defense, and other agencies are involved in planning and managing the programs. This paper aims at evaluating security assistance programs in the United States and the mechanisms the government can use to leverage the programs and build upon the existing capabilities. Consequently, this paper examines the roles of the agencies and departments involved in the programs to offer an understanding of the limitations and challenges experienced in the execution of the programs. While acknowledging the expanding role of the programs, the findings indicate a need for reforms in the export-control mechanisms since they have a direct effect on security assistance. Additionally, the findings highlight redundancies in the execution of the programs because of the involvement of many agencies and departments, which have duplicated roles. The study recommends a governance framework in the management of the programs since the framework could help in the integration of the redundant roles.

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LIST OF ACRONYMS AND ABBREVIATIONS

AECA	Arms Export Control Act
AES	Automated Export System
AETC	Air Education and Training Command
AFSA	Afghanistan Freedom Support Act
AFSAT	Air Force Security Assistance Training Squadron
AMC	Air Mobility Command
ASFF	Afghanistan Security Forces Fund
AT	Anti-Terrorism
CATP	Conventional Arms Transfer Policy
CB	Chemical and Biological
CCL	Commerce Control List
CETPP	Combined Education and Training Program Plan
CLSSA	Cooperative Logistics Supply Support Arrangement
CONUS	Continental United States
CRA	Continuing Resolution Authority
CTA	Country Team Assessment
CTFP	Combating Terrorism Fellowship Program
DAR	Defense Acquisition Regulation
DCAA	Defense Contract Audit Agency
DCMA	Defense Contract Management Agency
DCS	Direct Commercial Sales
DELG	Defense Export Loan Guarantee
DISAM	Defense Institute of Security Assistance Management
DLA	Defense Logistics Agency
DLMS	Defense Logistics Management System
DoC	Department of Commerce
DOD	Department of Defense
DoS	Department of State
DoS (PM)	DoS Bureau of Political-Military Affairs
DoS (PM/DDTC)	DoS Directorate of Defense Trade Controls
DoS (PM/RSAT)	DoS Bureau of Political-Military Affairs, Office of Regional Security and Arms Transfers
DoS (DTC)	DoS Directorate of Defense Trade Controls
DRMS	Defense Reutilization and Marketing Service
DSADC	Defense Security Assistance Development Center
DSAMS	Defense Security Assistance Management System
DSCA	Defense Security Cooperation Agency
EAA	Export Administration Act
EAR	Export Administration Regulations

ECCN	Export Control Classification Number
EDA	Excess Defense Articles
EEI	Electronic Export Information
EP	Excess Property
ESC	Executive Steering Committee
ESF	Economic Support Fund
FAA	Foreign Assistance Act
FCG	Foreign Clearance Guide
FCM	Foreign Consequence Management
FICS	Foreign Military Sales Integrated Control System
FMF	Foreign Military Financing
FMS	Foreign Military Sale
FMSCS	Foreign Military Sales Credit System
FMSO	Foreign Military Sales Order
FMT	Foreign Military Training
FOAA	Foreign Operations Export Financing and Related Appropriations Act
FSN	Foreign Service National
GAO	General Accounting Office
HA	Humanitarian Assistance
HAP-EP	Humanitarian Assistance Program Excess Property
HCA	Humanitarian and Civic Assistance
HDTC	Humanitarian Demining Training Center
HFAC	House of Foreign Affairs Committee
HMA	Humanitarian Mine Action
IA	Implementing Agency
IAs	Implementing Agencies
ICASS	International Cooperative Administrative Support Services
ICE	Immigration and Customs Enforcement
IEEPA	International Emergency Economic Powers Act
IMET	International Military Education and Training
INCA	International Narcotics Control Act
IPO	International Programs Office
ISFF	Iraq Security Forces Fund
ISN	International Security and Nonproliferation
ISTL	Integrated Standard Training List
ITA	International Trade Administration
ITAR	International Traffic in Arms Regulations
LOA	Letter of Offer and Acceptance
LOR	Letter of Request
MAP	Military Assistance Program

MT	Missile Technology
NDAA	National Defense Authorization Act
NETSAFA	Naval Education and Training Security Assistance Field Activity
NP	Nuclear Nonproliferation
NS	National Security
NSPD	National Security Presidential Directive
O&M	Operations and Maintenance
OFAC	Office of Foreign Asset Control
PKO	Peace Keeping Organization
POM	Program Objective Memorandum
SA	Security Assistance
SAAL-NI	Secretary of the Army for Defense Exports and Cooperation
SAM-C	Security Assistance Management CONUS Course
SAM-CF	Security Assistance Management Financial Management Course
SAM-CR	Security Assistance Management Reconciliation and Closure Course
SAM-CS	Security Assistance Management Logistics and Customer Support
SAM-TO/TM	Security Assistance Management Training Management Course
SAMIS	Security Assistance Management Information System
SAMM	Security Assistance Management Manual
SAMRS	Security Assistance Manpower Requirements System
SAN	Security Assistance Network
SATFA	Security Assistance Training Field Activity
SDN	Specially Designated Nationals
SECDEF	Secretary of Defense
SFRC	Senate Foreign Relations Committee
T&E	Time and Expense
TAA	Technical Assistance Agreement
TCC	Theater Security Cooperation
USAF	United States Air Force
USAID	United States Agency for International Development
USG	United States Government
USML	United States Munitions List
USN	United States Navy

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I. INTRODUCTION

A. OVERVIEW

For almost 50 years, security assistance has been an essential element of United States “foreign policy toolkit” (Adams and William 2011, 6). It includes programs for economic support, humanitarian and relief support, development assistance, health assistance, and military assistance, and several other programs. From the nascent years of programs for military assistance, the Department of State through Function 150 of the International Affairs Budget has planned, guided, and conducted security assistance. Function 150 is the international affairs account that includes cash allocated to aid developing nations, as well as military assistance to U.S. allies. However, the Department of Defense (DOD) has always handled the implementation of the programs through the Defense Security Corporation Agency (and its predecessor agencies). The DOD has a direct role in planning and budgeting for the programs. Associated largely with the experience in Afghanistan and Iraq, the long-established cadre of security assistance programs has been combined with several new programs under the oversight, guidance, and budget of the DOD (Adams and Williams 2011, 7). The new programs have expanded the responsibilities of the Pentagon in security assistance. However, the new programs have also raised questions concerning the relationship of the Pentagon to the programs, the responsibilities, as well as the authority of the Secretary of State (Adams and Williams 2011, 3).

B. IMPORTANCE OF THE PROJECT

As the United States makes transitions from its military intervention in Iraq and Afghanistan, maintaining global security and stability has become a shared responsibility amongst several agencies in the country. Close association with partners and allies in addressing common challenges in security has been a crucial part of U.S. foreign policy for years. However, the increased interconnectedness of economies around the world means that the U.S. national security could be affected by the events in other regions,

places, and countries. Consequently, this has led to increased demands for the expansion of partnership and deepening of common actions.

This evaluates U.S. security assistance programs. The paper suggests that the reforms in export control for defense or military equipment will help in leveraging Security Assistance programs and building upon the existing capabilities. The conventional portfolio of security assistance was developed during the Cold War in a security perspective, which focused on the security of the recipient nations and the adjacent regions. However, the United States has redesigned the old programs to support U.S. strategic partnership goals, strengthen military capabilities of the recipient nations, and build military-to-military relationships. Since the invasion of Iraq and Afghanistan, the security goals have broadened to encompass building the military capability of local security forces and coalition partners. According to Adams and Williams (2011, 7), the focus has facilitated the building of reliable partnerships for counter-insurgency operations. Additionally, the programs have allowed the United States to avoid deployment of U.S. military personnel since the recipient nations can conduct military operations on their own. The two goals highlighted by Adams and Williams (2011, 7) have a close relationship with the U.S. military operations. The Defense Department has had a noteworthy role in budgeting and planning for security assistance programs in recent time (Adams and Williams 2011, 6). The DOD justifies its continued push for planning and budgeting for the programs by suggesting that it can manage the programs with additional agility and flexibility, as well as generate more funding than the Department of State (Adams and Williams 2011, 7).

Even if the United States does not send ground troops to another war, it will remain involved in helping its friends and allies around the world. There is little reason to think that security assistance will not remain vital in the conflicts to come. As such, it is essential to assess these programs today and rethink the framework surrounding them (Adams and Williams 2011, p 7).

Consequently, this paper follows an approach outlined by Adams and Williams, which suggests the re-evaluation of the programs using the concept of governance as the framework:

Governance refers to the broader need to strengthen state capacity in failing, fragile, collapsing, and post-conflict states . . . [and] is linked, in turn, to issues of social and economic development, which contribute to both stability and long-term growth. A narrow focus on security in U.S. security assistance programs misses this vital connection. It de-links support for security forces from the need for effective, efficient, and accountable governance. Historically, military and other security forces empowered through security assistance programs in countries with weak governance have too often led to diminished accountability, authoritarian government, military coups, and human rights violations. (7)

Similarly, McNerney, Moroney, Mandaville, and Hagen (2014) asserts that lack of government integration has led to a transaction-based approach in security assistance. The absence of an integrated approach across stakeholders produces unintended outcomes such as the following:

- Disconnects in planning in which different agencies execute similar programs
- Assistance efforts that do not meet the needs of the recipient nation
- Insufficient understanding of the effectiveness and performance of the programs

Generating efficient, effective, and accountable security assistance programs that avoid focusing on narrow military objectives and concentrate instead on the political end state can help transform a country's chaos to order. Restructuring the security assistance program from a military to a governance perspective is therefore an imperative for policymakers, soldiers, and diplomats alike (Adams and Williams 2011, 8).

C. SCOPE AND OBJECTIVES

This paper examines the roles of various agencies involved in the United States security assistance program. The agencies include the Department of Commerce's Bureau of Industry and Security (BIS), the Department of State, the Department of

Defense, and the Department of the Treasury's Office of Foreign Assets Control. The project conducts a comprehensive evaluation of the internal and external aspects of security assistance for the identification of the redundancies in the security assistance programs. Subsequently, it will highlight the changes that the departments should institutionalize in security assistance for the improvement of overall security. To this end, the report aims at fulfilling the following objectives.

The primary objective of the research is the examination of the variables that affect the conduction of security assistance and the changes that the involved departments should institutionalize to improve the system. The secondary objective is to evaluate the strategies that the United States can use in leveraging security assistance to increase accountability in governance and build stable military capabilities at the same time. The following set of sub-objectives will guide the achievement of the above-mentioned objectives.

- To identify the legislation that should be updated
- To identify and delineate the categories of security assistance (Foreign Military Sales, Direct Commercial Sales, and International Military Education and Training)
- To identify the agencies involved with security assistance
- To assess the current reforms to export controls
- To analyze the global perspective of security assistance
- To assess how foreign military sales impact U.S. ability to increase its capability

The project will achieve the objectives through a literature-based methodology, which will entail the analysis of the roles of the departments based on secondary data from published reports and documentation.

D. PROJECT ORGANIZATION

The remainder of this project is organized as follows: Chapter II provides the readers with a basic understanding of the concepts, organizations, and systems associated

with security assistance in the United States. The chapter analyzes the agencies responsible for security assistance (BIS, Department of State, and Office of Foreign Assets Control) and regulations on security assistance. Chapter III presents data on the existing security assistance limits, the global perspective on security assistance, reforms of export controls, redundancies in security assistance, and the future of security assistance. Chapter IV discusses the consequences of the findings while the last chapter offers conclusions and recommendations.

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II. BACKGROUND

A. LITERATURE REVIEW

This paper identifies and evaluates the existing policies and practices relating to arms transfers and security assistance with the goal of formulating recommendations to improve future performance. It approaches this task by examining the existing literature on the subject through the lens of identifying past problems and developing lessons for avoiding those pitfalls in the future. There currently exists a limited number of published books about security assistance, and so this paper relies primarily on government documents and shorter academic studies that are available on websites. Ensuring that the full scope of these studies was considered while quickly and efficiently moving on from less relevant or credible work was the major research challenge. The search term “security assistance” quickly located a plethora of raw material; brief examination of introductions and executive summaries helped to establish a more manageable and relevant research base. The analysis in this paper is thematic as described by Braun and Clarke (2006, 81). It involves the identification, examination, and recording of themes or patterns by means of qualitative description of events and phenomenon (Braun and Clarke 2006, 81). Following the collection of information from the selected studies, themes were identified that would help in answering the research questions.

B. SECURITY ASSISTANCE AND EXPORT CONTROL

1. Security Assistance

According to Adams and Williams (2011, 12), the United States has provided approximately \$200 billion for security assistance to foreign countries for almost half a century:

Under the statutory authorities of the Foreign Assistance Act (FAA) of 1961 and the Arms Export Control Act (AECA) of 1972, the United States has provided support in the form of grants and loans for the purchase of U.S. defense equipment, services, and training; supported the education

and training of foreign military officers in the United States; and funded training, equipment, and services for foreign military forces participating in peacekeeping operations. (12)

Although the Department of State was traditionally the lead agency in managing and overseeing security assistance programs, the Department of Defense began to accrue more authority over the years in managing and implementing those programs. In Afghanistan and Iraq, for instance, the State Department had fewer resources than DOD and could not usually provide the skilled personnel necessary to perform their tasks to complement military operations. Sometimes, soldiers did those jobs. Military officers have also long cultivated interaction with foreign military establishments to strengthen those armies' capabilities. As a result of these interactions, combined exercises and training missions facilitate interoperability and build trust. The focus of these mil-to-mil programs was often as much diplomatic as military and the descriptions of military engagements could sometimes sound as if they were written by an assistant secretary of state. While DOD continued to collaborate with the State Department, the bonds of State Department control were loosened, and DOD clearly was in charge (Adams and Williams 2011, 7–11)

2. Export Controls

A variety of fuzzy and contradictory policies have plagued the export control system as Ferguson and Kerr (2014, 1) have made clear: “Exporters, nonproliferation advocates, allies, and other stakeholders” they write, have argued that controls are “too rigorous, insufficiently rigorous, cumbersome, obsolete, inefficient, or any combination. Some contend that U.S. export controls overly restrict U.S. exports and make firms less competitive. Others argue that U.S. defense and foreign policy considerations should trump commercial concerns.” The authors cite a January 2007 Government Accountability Office (GAO) report that “designated government programs designed to protect critical technologies, including the U.S. export control system” at “high risk” and warranting “a strategic reexamination of existing programs to identify needed changes.” (Ferguson and Kerr 2014, 1). Among the needed changes, a 2012 GAO report argued that

reform could be achieved through retaining the interagency structure but centralizing licensing control into a single agency and converting to a single IT system.

There is no doubt that the United States has paid a heavy toll in Iraq and Afghanistan in terms of lives lost, soldiers injured, and dollars spent. Despite the heavy investment of American blood and money, the benefits that have accrued from these operations have not been decisive, but by any measure been scant and uncertain. Some argue that it is time for the United States to withdraw from these types of insurgency operations forever. Yet it seems clear that even if the United States does not send its own soldiers to fight others' wars, our allies will continue to look to the United States for both moral and materiel support and, as Shapiro (2012) argues, strong security assistance programs will remain vital to U.S. security. Shapiro quotes former Secretary of Defense Panetta's assessment:

The United States must place even greater strategic emphasis on building the security capabilities of others, and adopting a more collaborative approach to security both within the United States government and among allies, partners, and multilateral organizations. (24)

Shapiro summarizes the implications and potential problems of the United States' effort to adjust the locus of military operations by stating:

When the U.S. government is looking for cost-effective ways to achieve its strategic objectives at home and around the world, security assistance with allies and partners is an increasingly important national security priority. However, the ability of the United States to provide security assistance may come under strain; the State Department's budget is often a target for cuts in fiscally difficult times, and an underestimation of the strategic importance of these programs could limit the ability of the United States to partner in the years ahead. (24)

3. Current Status of Security Assistance

Currently, the legislative and executive branches of government fund and review all security assistance programs. The U.S. government has engaged in almost two years of interagency review of the programs under the Obama administration. The Department of Defense implemented a 2009 proposal aimed at the formation of joint funding pools

between the Department of Defense and the Department of State. The two departments aimed at creating a joint pool of funding for security assistance, post-conflict reconstruction, and conflict resolution/prevention. The departments engaged in negotiations that led to the proposal for the authorization of a Global Security Contingency Fund managed by the Department of State. The fund included approximately \$500 million, of which \$50 million was appropriated to the Department of State (Adams and Williams 2011, 26).

The purpose of the fund is expected to be broad in increasing the flexibility of the programs. The fund also aims at promoting stabilization efforts, the rule of law, and justice in the recipient countries. Essentially, the fund does not aim at eliminating, consolidating, or reducing the traditional funding. However, the enactment of the proposal has experienced significant debate leading to confusion about coordination and the strategic focus of security assistance. Although the Congress has not offered clear directions regarding security assistance, it continues supporting and funding the programs through the DOD and DoS (Adams and Williams 2011, 26).

4. Categories of Security Assistance

Security assistance includes a broad portfolio of programs. However, the main programs include the Foreign Military Sales (FMS), Direct Commercial Sales (DCS), and International Military Education and Training (IMET). In simple terms, security assistance entails the transfer of defense or military articles and services from the United States to allies and partners, as well as international organizations.

Official pacts between the U.S. government and its sanctioned countries provide the basis for the Foreign Military Sales (FMS) program. Additionally, these purchases are sanctioned by the Arms Export Control Act (AECA) (Serafino 2008, 13). This allows countries to purchase defense services, and articles from the United States (Serafino 2008, 53). The program operates on a “no-loss” and “no-profit” basis to the government. Consequently, countries require a letter of request (LOR) before the U.S. government considers any transaction (Serafino 2008, 17).

Under Foreign Military Sales, the U.S. government writes a letter of offer and acceptance (LOA) (a form of government-to-government agreement), which the recipient country receives. The LOA specifies the articles and services that the U.S. government will provide and the estimated cost. The government may supply the articles from its stock or contract them on behalf of the recipient country. The FMS agreements between the United States and the recipient countries may undergo frequent changes through amendments and modifications. The FMS also allows countries to receive DOD logistics and training (Serafino 2008, 19). The FMS is among the multiplicity of programs that advance U.S. Foreign Policy, as well as national security objectives.

Several criteria determine the eligibility of purchasers in using the FMS program. First, it must be established that the furnishing of the defense services or articles to the purchaser strengthens U.S. national security and promotes world peace. Second, the purchaser should have agreed not to transfer the title or the articles and their related training to anyone. Additionally, the purchaser should agree not to use the articles or services for any other reason other than the ones designated. Third, the purchaser should have agreed to maintain the security of the articles or services, and last, the United States should confirm that the purchaser is eligible to buy or lease the articles in accordance with the U.S. laws governing the sale of military equipment (Defense Institute of Security Assistance Management 2007, 2–3).

Direct Commercial Sales (DCS) are the sales made by U.S. companies to international customers without going through the DOD. U.S. industries must obtain a license for the sales from the Office of Defense Trade Control in the Department of State. Therefore, Direct Commercial Sales are monitored under the ITAR by the Department of State. Under the DCS, international customers make contract negotiations with U.S. suppliers or manufacturers directly. However, the DCS is applicable when the military requirements of the purchaser differ appreciably from the U.S. configurations. Additionally, DCS is appropriate when the licensed production between domestic industry and the U.S. manufacturers (Walter 2001, 2).

The International Military Education and Training program was designed for training and helping military forces in ally and partner countries. The Department of State has maintained a consistent oversight over the program. Under the program, military personnel from the recipient countries travel to the United States to experience U.S. military practices first-hand. According to Shapiro (2012, 28), the program has become a tool for the professionalization of militaries in the partner countries through imparting the fundamental U.S. values such as civilian control and human rights of the military. Additionally, the program has assisted in the creation of personal relationships between the United States and the partner countries. Although the Department of State controls the program, the Congress advances funds and authorizes the programs through the DOD.

5. Challenges Facing the U.S. Security Assistance Programs

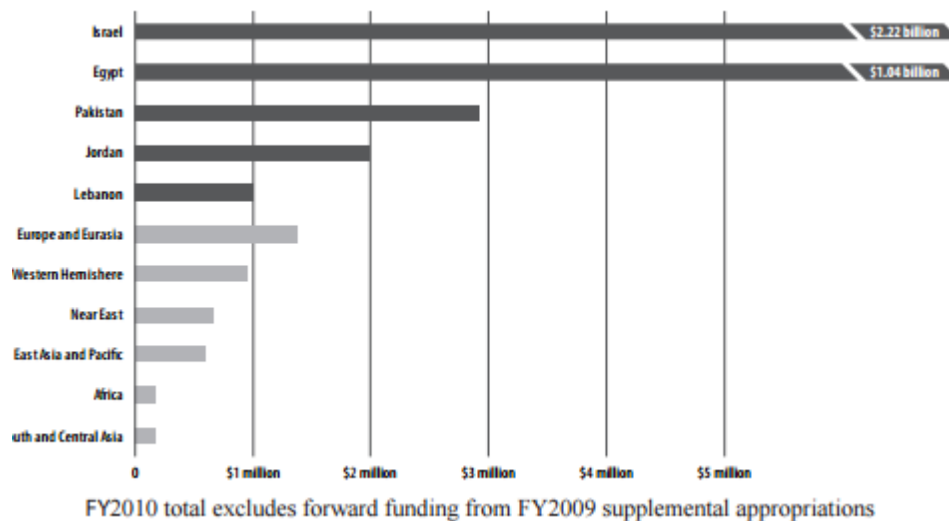
Adams and Williams (2011, 20) state that security assistance programs must overcome several obstacles in order to improve and reintroduce capabilities. The challenges include the lack of strategic guidance, a disparity of the agencies and departments' capabilities, the need for agility and flexibility, and a disparity of funding for the agencies.

The lack of strategic guidance: Essentially, many agencies involved in security assistance operate with little reference to the related agencies. The Department of State and the Department of Defense have different views of security assistance, although they remain the main agencies involved in the programs. The end of the Cold War reinforced the lack of a coherent structure and design. Typically, the Department of State maintained the portfolio of programs that reinforce strategic relationships with allies and partners. Conversely, the Department of Defense focused on the operational requirements of the U.S. military and its assistance to allies and partners (Adams and Williams 2011, 20). Consequently, the two departments lacked a unifying theme and objective in their roles in security assistance. Additionally, there has been an insufficient evaluation of the performance of the programs over the rule different administrations. Each administration

inherits a portfolio of programs and authorities but does not conduct a thorough review of the accomplished goals in relation to foreign policy objective (Adams and Williams 2011, 20). Therefore, Adams and Williams (2011, 20) suggest that the United States can restore the rationality of the programs through reviewing the programs and designing a coherent strategy.

A disparity of capacities: The agencies involved have differing capacities because of under- investment. According to Adams and Williams (2011, 22), the capacity of the Department of State in the development, budgeting, and supervision of the implementation of the programs has consistently declined over the years. The State has focused only on a limited number of strategic countries including Israel, Egypt, Lebanon, and Jordan as shown in Figure 1.

Figure 1. Foreign Military Financing Under Security Assistance (FY2010)



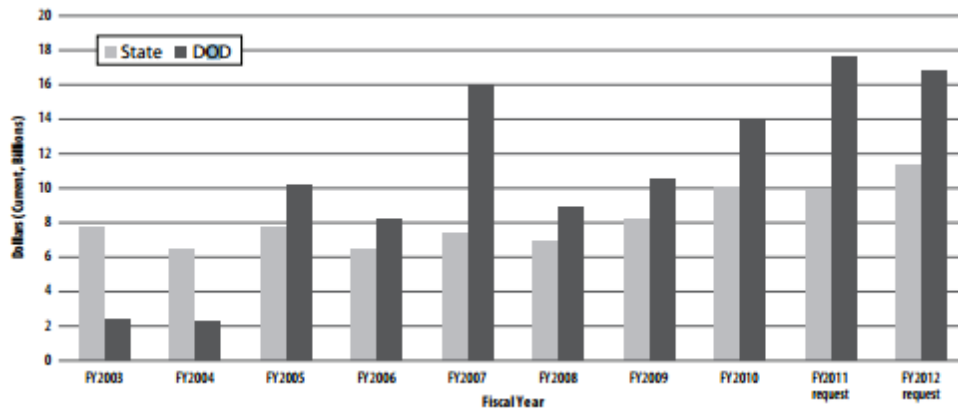
Source: Adams, Gordon. and Rebecca Williams. 2011. *A New Way Forward: Rebalancing Security Assistance Programs and Authorities*. Washington, DC: Henry L. Stimson Center.

Conversely, the Department of Defense has increased its efforts in security assistance based on its knowledge of planning for such activities. Nonetheless, the DOD has also suffered setbacks because of the bureaucracy governing security assistance (Adams and Williams 2011, 22).

Need for agility and flexibility: The agencies involved in security assistance portray disparity in terms of agility and flexibility (Adams and Williams 2011, 20). The DOD argued that the existing programs and authorities for were slow and inflexible in responding to the changing security threats (Serafino 2014, 26). The assertion echoes the sentiments by Gates (2010, 4) that the approaches used in security assistance should reflect flexibility and agility. The Arms Control and Export Act and the Foreign Assistance Act do not reflect the current needs since they were designed during the Cold War (Adams and Williams 2011, 20). The inflexibility of the programs during the Cold War aimed at controlling the sale of military items to non-allies to prevent violations of human rights (Adams and Williams 2011, 21). Additionally, the United States used the regulations to build the military capacity of its allies to resist Soviet-sponsored insurgencies without direct military intervention (Gates 2010, 2). The requirements under the regulations create additional notification requirements, oversight, and earmarking, which slow the flexibility and agility of the programs (Adams and Williams 2011, 21). Although amendments have led to some flexibility, the lack of overall attention from the administration has led to laxity from the Department of State in using the flexibilities.

A disparity in funding: Security Assistance suffers from setbacks created by the disparity of funding. The Department of State has the statutory mandate on security assistance (Serafino 2010, 26), but the majority of the funds for the programs are offered from the DOD budgetary allocations. Between 2010 and 2011, the funding from the Department of State fell by approximately 42% while funding from the Department of Defense rose by 58% (Adams and Williams 2011, 23). Congress has portrayed significant willingness in funding the DOD because of its role in counterterrorism. Figure 2 explicates the disparity of funding between the Department of State and the Department of Defense.

Figure 2. Share of U.S. Security Assistance Programs



Source: Adams, Gordon, and Rebecca Williams. 2011. *A New Way Forward: Rebalancing Security Assistance Programs and Authorities*. Washington, DC: Henry L. Stimson Center.

Essentially, the Congress has offered much of the funding through supplemental appropriations. Although State-USAID funding increased by up to 66% between 2003 and 2011, most of the funds were used in building strategic partnerships, especially in the Middle East. Congress has shown reluctance in funding the Department of State for its roles in security assistance. Most of the accounts in the Department of State focus on refugee and humanitarian needs rather than security assistance.

C. AGENCIES INVOLVED IN SECURITY ASSISTANCE AND EXPORT CONTROL

A large number of agencies are involved in security assistance and export control in the United States. The Department of Commerce’s Bureau of Industry and Security (BIS) is accountable for the implementation and enforcement of Export Administration Regulations (EAR) (Wiggenhorn, Gleason, and Sukhwani 2014, 103). The regulations “pertain to the export and re-export of dual-use commercial items” (Kozyulin 2009). The Department of State has the technical responsibility for approving explicit military sales. The DoS enforces the International Arms Regulations (ITAR) and the Arms Export Control Act regulates purchases (Ordway, 2009). The Office of Foreign Assets Control

imposes economic and trade sanctions with specific legislation and executive powers within the Department of the Treasury (U.S. Department of the Treasury, 2015).

1. Department of Commerce's Bureau of Industry and Security

The Department of Commerce's Bureau of Industry and Security (BIS) enforces import and export "restrictions for reasons of national security, foreign policy, and nonproliferation" (Wiggenhorn 2014, 103). While the Department of State controls the export of military items, the authority of BIS is to control export of dual-use items. Consequently, the agency can deny domestic or foreign persons or companies export privileges under the auspices of the EAR. Additionally, the BIS may deny the privileges as sanctions in case the entity has a criminal conviction associated with statutes such as the Arms Export Control Act (Ferguson and Paul 2014, 3). The BIS can also impose temporary denial order (TDO) for the prevention of immediate violation of the EAR (Hirschhorn 2010, 128). The BIS often publishes the names of the entities that have been denied export privileges in the *Federal Register*. The purpose of export controls is to facilitate foreign policy and national security interests of the United States, as well as conduct its international obligations. The BIS has the challenge of enabling legitimate global trade in U.S. technology and goods while maintaining the items and technologies from proliferating to terrorists. The BIS controls the export of items that may have multiple commercial and military applications, which is governed by the Export Administration Regulations (U.S. Department of Commerce, 2010). The items could be commodities, technology, or software such as building materials, clothing, automotive parts, circuit boards, off-the-shelf software, blueprints, and technical information. However, Wiggenhorn (2014, 101) suggests that some of the provisions of the EAR focus on individuals rather than entire countries.

The scope of control of the BIS includes items in the United States, specific items outside the United States, activities of U.S. citizens and deemed exports. The items and activities include all items of U.S. origin, foreign items containing items originating from the United States, foreign items of technology and software originating from the United

States, and activities of U.S. citizens including those that support the proliferation of related activities (Bureau of Industry Security 2009, 62). Essentially, the core duty of the Bureau of Industry and Security (2009) is to advance the country's foreign policy, economic and national security goals by guaranteeing an operative export control, treaty compliance systems, as well as the promotion of continued strategic technology in the United States.

The mission of the Bureau of Industry and Security (BIS) is to advance U.S. national security, foreign policy, and economic objectives by ensuring an effective export control and treaty compliance system and by promoting continued U.S. strategic technology leadership. (62)

In its mandate, the Bureau of Industry and Security has to define the export license requirements. First, the BIS identifies the classification of the item. All items have an Export Control Classification Number (ECCN). The BIS lists items, according to their technical parameters. Essentially, the ECCN identifies the major "Reasons For Control" as national security (NS), anti-terrorism (AT), chemical and biological (CB) reasons, missile technology (MT) reasons and nuclear nonproliferation (NP) among other reasons. Other considerations in export control by the BIS include the destination, end-user, and end-use of the item. The Commerce Control List (CCL) has the items subject BIS licensing authority. Items not included in the CCL fall under the EAR99 (U.S. Department of Commerce 2010, 5). However, some items have license exceptions. A license exception from BIS authorizes exports in case the transaction satisfies certain criteria that would otherwise require licensing based on the Reason for Control (U.S. Department of Commerce 2010, 5). In many cases, the exporter does not require written authorization from the BIS. In summary, BIS regulates the export and re-export of the items that could jeopardize national and global security.

2. The Department of State

Technically, the Department of State has the responsibility of approving all military sales (U.S. Department of Commerce 2010, 1). Macuso (2014, 1) explains that the Arms Export Control Act dictates how sales are made; these rules are further enforced

by the Department of State through the International Traffic in Arms Regulations (ITAR). The department enforces the International Traffic in Arms Regulations (ITAR) sales governed by the Arms Export Control Act (Macuso 2014, 1). The department represents the United States in approximately 180 countries and 43 international organizations with 260 operational embassies. The State Department formulates and implements the country's foreign policy with the priority being the fight against terrorism since September 11, 2001. The Department of State approves all sales of defense services and articles to foreign countries pursuant to Section 2 of the AECA. The Department of State Directorate of Defense Trade Controls (DDTC) collaborates with the Department of Commerce's Bureau of Industry and Security (BIS) in controlling such sales. Unlike the BIS, the Department of State controls the export, transfer, and re-export of defense services and articles to non-U.S. destinations and non-U.S. persons pursuant to the ITAR. Additionally, the department can impose restrictions on transactions conducted by non-U.S. parties. These transactions involve the retransfer of defense articles of U.S. origin from a non-U.S. entity to another (Gilman 2014, 35).

The State Department has a central role in security assistance and control of military sales because the programs have significant implications for foreign policy (Shapiro 2012, 27). The department not only promotes Foreign Military Assistance under the security assistance programs but also provides weapons platforms such as training and spare parts for the operation and maintenance of the weaponry (Shapiro 2012, 28).

The State Department has largely acquiesced in this expansion of DOD funding, authority and responsibility without redefining its role or overall mission of security assistance. State remains responsible for Foreign Military Financing (FMF), and International Military Education and Training. (Adams and Williams 2011, 12)

However, the department requires complex interagency cooperation and inputs in running the programs (Shapiro 2012, 33), which has led to experts citing inefficiency in the programs (Adams and Williams 2011, 19).

3. Department of Treasury’s Office of Foreign Assets Control

The Office of Foreign Assets Control (OFAC) under the Department of Treasury has several responsibilities related to the national and global peace and security. Fundamentally, the OFAC conducts the administration and enforcement of trade and economic sanctions for individual or countries that engage in criminal activity outlined by the U.S. national security objectives (Bridger Systems 4; Peccei 2002; U.S. Department of the Treasury 2015, 1). The OFAC functions under the authority granted by specific legislation and presidential national emergency powers.

According to the Department of the Treasury’s website, OFAC “administers and enforces economic sanctions programs primarily against countries and groups of individuals, such as terrorists and narcotics traffickers.” Currently, almost 30 countries are identified as having either “comprehensive or selective” sanctions that serve to “block assets” and impose “trade restrictions” in the furtherance of U.S. foreign policy and national security. The Treasury says that OFAC integrates its data with the other agencies to facilitate effective screening and maintenance of compliance (U.S. Department of the Treasury 2015, 1).

4. Defense Logistics Agency

The Defense Logistics Agency (DLA) offers a centralized mechanism for the disposal and management of surplus and excess military property (Grasso 2014, 1). The main component of the agency entails the reutilization of the surplus and excess defense articles (EDA) to prevent wasteful purchases in the Department of Defense. The Defense Logistics Agency implements the DOD’s controls for the prevention of unauthorized transfer of surplus and excess military and defense articles (Leon et al. 2013, 1). The DLA plays the role in conjunction with several DOD components including the Defense Reutilization and Marketing Service (DRMS—a part of the DLA) and the Defense Security Cooperation Agency (DSCA). The DLA ensures that all the shipment of defense articles under the Foreign Military Sales program follows the applicable rules and procedures (Reynolds 2010, 3–6).

Essentially, the DLA acts as the agency in charge of DOD's combat logistics support (Grasso 2014, 1). The agency's mission is to offer the best value for America's Armed Forces and the eligible customers. The broad activities of the DLA include the storage, distribution, and facilitation of the disposal and reutilization of defense articles, as well as the management of the DOD's stockpile and provision of logistics information to the DOD (DLA 2009, 2). The DLA Disposition Services facilitates the disposal of the EDA (Grasso 2014, 4). Excess Defense Articles include all defense items the DOD does not need any more as declared by the U.S. Armed Forces. However, the articles may require demilitarization when the foreign countries no longer need them to avoid their transfer to non-friendly countries. The DLA oversees the demilitarization process (Inspector General 2009, 5). DLA's DRMS managers compile lists from excess equipment reports submitted by the Services to determine the availability of U.S. excess equipment available to foreign governments and then establish case files when eligible foreign governments submit requests for the EDA. The acquisition of the excess defense articles from the DLA requires the case managers from DRMS to send Letter of Offer and Acceptance to the Defense Security Cooperation Agency for review, endorsement, and signature (Inspector General 2009, 6).

5. USASAC, NIPO, and SAF/IA

The U.S. Army Security Assistance Command (USASAC) has a strategic role in managing the Army's Security programs. Additionally, the USASAC leads the AMC Security Assistance Enterprise (ASAE), as well as cases associated with Foreign Military Sales (FMS) (Turner 2012, 5). The strategic role extends beyond the initial planning phase to the development of the requirements that ensure its activities remain on course. Fundamentally, the USASAC acts as the point of contact between the Army and the Department of Defense, foreign governments, as well as other government offices and agencies. The USASAC derives its policy guidance from the Defense Security Assistance Agency jointly managed by the Department of Defense and the Department of State.

The roles of the USASAC relates to several other agencies involved in the management and control of the sale of defense articles. First, the USASAC acts as the Implementing Agency for Security Assistance programs meaning that it receives the Letters of Request from the eligible governments. Additionally, the agency provides materials and related services to the eligible countries. The USASAC also coordinates with different Army commands, military depots, as well as government agencies and private organizations for the support of the approved programs. The core role entails the provision of the labor force and financial data necessary for the FMS Program Objective Memorandum (POM). Additionally, the USASAC offers administrative support for the development and handling of cases associated with FMS (Turner 2012, 5).

While USASAC manages Army's security assistance programs, the Navy International Programs office manages all the Navy's SA programs (Reynolds 2010, 3–16). All the management of the Navy's SA programs is conducted at Naval Education and Training Security Assistance Field Activity (NETSAFA). Conversely, Secretary of the Air Force, Deputy Undersecretary for International Affairs (SAF/IA) oversees, develops, and implements the USAF/IA activities (Reynolds 2010, 3–18). According to Reynolds (2010, 3–19), the success of U.S. security assistance program requires cooperation from all agencies within the government. Although the Secretary of State has the role of supervising the programs, the DOD has the largest supportive role that tends to override the authority of the Secretary of State.

D. REGULATIONS RELATED TO SECURITY ASSISTANCE

Several regulations govern Export Control Systems and Security Assistance in the United States. Some of the regulations include the Export Administration Act, International Traffic in Arms Regulation, U.S. Foreign Assistance Act of 1961, and Arms Export Control Act of 1976.

1. Export Administration Act

The Export Administration Act (EAA) of 1979 is the statutory authority that controls how dual-use items can and cannot be exported to the United States. Despite its

expiry, the EAA has been authorized periodically for short periods, depending on the needs (Ferguson and Kerr 2014, 2). Currently, export licensing under EAA continues through a Presidential Declaration. This executive authority is outlined in the International Emergency Economic Powers Act (IEEPA), which gives the president power to establish requirements for the Commerce Control List (CCL) (Ferguson and Kerr 2014, 3).

The intent of the EAA was to improve strategic relationships, the existent commercial technologies, and international business practices of the time. (Ferguson and Kerr 2014, 3). However, many of the elements have changed over time. Consequently, some experts and members of Congress demand the liberalization of the export regulation to allow U.S. companies in engaging in effective international competition for the sale of the controlled goods (Ferguson and Kerr 2014, 3). In spite of this, many political leaders and dignitaries contend that current regulations should be changed due to the present and potential threats to the nation's security.

The Bureau of Industry and Security manages the dual-purpose exports under the EAA. The BIS took the responsibility after the detachment of the licensing and enforcement responsibilities from the International Trade Administration (ITA) in 1985. The enforcement of the EAA has become a core mission for the BIS henceforth. The implementation of the EAA occurs through the auspices of the Export Administration Regulations (EAR), which, in turn, has continued its functionality under the IEEPA authority after the expiry of the EAA. The EAR sets the licensing policies for commodities and destinations, the process of application by exporters, and the CCL. Currently, the penalties related to the violation of export regulations rely on the IEEPA since the expiration of the EAA (Ferguson and Kerr 2014, 2).

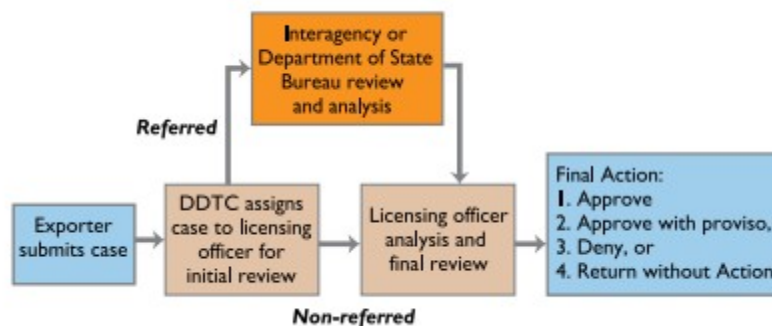
2. The International Traffic in Arms Regulations

The Directorate of The Defense Trade Controls (DDTC), in coordination with the Defense Technology Security Administration (DTSA), manages the enforcement of the International Traffic in Arms Regulations (ITAR). As a result, the ITAR controls the

technical data and materiel that can be used for military applications. (Ordway 1). According to Ferguson and Paul (2014, 6), the ITAR governs the regulation of the U.S. Munitions List (USML). The Department of State has assigned the term “defense articles” or “services” to the controlled items. The regulation furthers the country’s security objectives while supporting valid requirements for efficient and mutually favorable defense relationships (Ordway 2009, 1).

The ITAR designates items as defense articles in case the manufacturer designed, configured, developed, modified, or adapted them for military use. The intention for use after its export does not determine whether an item falls in the USML. The DDTC determines whether items are defense articles. The agency has significant discretion in making the deliberations. The DDTC issues temporary or permanent licenses for the export of such items. There exists a limited number of exemptions for export, as well as temporary imports of defense articles and services other than the ones provided in section 126.6. ITAR applies to FMS but does not apply to DCS. Figure 3 represents the licensing process under the ITAR.

Figure 3. Licensing Process under the ITAR



Source: United States Department of Commerce and Federal Aviation Administration. 2008. “Introduction to U.S. Export Controls for the Commercial Space Industry.” Washington, DC: FAA and DOC https://www.faa.gov/about/office_org/headquarters_offices/ast/media/Intro%20to%20US%20Export%20Controls.pdf.

According to Dwyer et al. (2012, 1), the ITAR encompasses most technological areas that have probable military value. However, the authors delineate two main factors

that have affected the regulation. First, the authors cite the changing nature of the U.S. national security environment. Unlike during the Cold War, many factors threaten national security apart from the maintenance of technological parity. Second, the authors assert that the commercial has expanded significantly in the United States. During the Cold War, when the ITAR was designed, space technology was a weapon by itself and needed protection. Currently, space technology is capable of dual-use for military and commercial use.

Some experts have pointed out at the negative consequences of ITAR and the discretion granted to the DDTC in determining whether items fall under the USML. According to Dwyer et al. (2012, 9), the regulation has affected For-Profit Stakeholders negatively. The authors assert that the regulation has led to the loss of the market share among the U.S. manufacturers. Furthermore, the study observes that the ITAR has led to the loss of capabilities in competitive bidding. The TAA requirements under the ITAR have faced criticism for making U.S. technology appear unattractive compared to the technology in less regulated nations. Additionally, the study contends that the regulation has increased the burden of compliance. According to the report, U.S. manufacturers spend approximately \$50 million per annum in hiring export control compliance officers, as well as training employees about compliance.

However, the ITAR has received significant attention domestically and on the international scene in the recent times. The heightened focus relates to two main factors. First, the threats to national and global security have increased, which has led to an increased need for enforcement against items with potential military use. Second, the industry dealing with the manufacture of such items has expanded significantly since the end of the Cold War. Consequently, several attempts to reform the Department of State concerning the authorization process, as well as the regulation itself have been conducted (Ordway 2009, 1). In 2010, the Department of State amended ITAR to allow the transference of technical data and defense articles to “third-party nationals who are bona fide or regular employees” (*Federal Register* 48625, 2010).

3. The U.S. Foreign Assistance Act of 1961

The United States enacted the Foreign Assistance Act of 1961 during the rule of President Kennedy. The act aimed at “organizing and implementing U.S. foreign assistance programs with a commitment to long range economic assistance to the developing world” (Rennack and Chessser 2011, 1). The United States has used the act despite a number of amendments for almost half a decade. The Department of State exercises the leadership roles in overseeing the implementation of the act. The act encompasses several elements of the foreign assistance that the U.S. offers internationally. Similar to other regulations, the Foreign Assistance Act aims at promoting national security and foreign policy objectives of the U.S. The Act has significant applications in security assistance. The U.S. uses the act in providing defense articles and services, as well as military training in conjunction with the Arms Export Control Act of 1976 (Rennack and Shuey 1998, 7).

4. The Arms Export Control Act of 1976

The Arms Export Control Act (AECA) falls under the category of military export controls. The act provides the president with powers and statutory authority of controlling the export of defense items. Essentially, the Act establishes the national and foreign policy goals for defense cooperation. Section 3(a) of the Act offers the general criteria of eligibility for international organizations and countries. Furthermore, the section expresses the conditions on the use of the defense items. The Act states that the United States will only sell defense items to friendly nations for internal security, as well as legitimate self-defense against aggression (Ferguson and Paul 2014): “The AECA also contains the statutory authority for the Foreign Military Sales program, under which the U.S. government sells U.S. defense equipment, services, and training on a government-to-government basis” (5). According to Brown (2008, 2), AECA allows the United States to sell defense articles for internal security and legitimate self-defense.

A key element of the AECA entails the requirement for congressional considerations of specific FMS suggested by the president. The procedure engrosses

contemplations of proposals for the sale of major defense articles and services or the transfer of such articles and services to other nations. The Executive Branch proceeds with the sale of the articles or services after ascertaining the compliance with the conditions and terms of the U.S. law. However, the AECA demands the notification of the Congress 30 days before the conclusion of the government-to-government agreements (Ferguson and Kerr 6). However, sales to NATO members, Australia, Japan, and New Zealand require only a 15-day notification. Critics suggest that the implementation of AECA involve political calculations that lead to differential treatment of nations, for example, Israel (Brown 2008, 3).

The AECA follows the licensing policies set under the International Traffic in Arms Regulations (ITAR). Essentially, ITAR explicates the licensing policy for exports of USML items. The United States requires the obtainment of a license for the export of all USML items. However, Canada has few restrictions since the United States considers it as part of its defense industrial base. Furthermore, the United States does not apply the AECA and the licensing requirements in Australia and the UK since it signed and ratified special treaties with the two countries in 2010 (Ferguson and Paul 2014, 6). Nonetheless, the licensing requirements under the AECA depend on the nature of the articles rather than the end-user or end-use. Consequently, the United States imposes unilateral restrictions on the export of munitions to some countries or as based on adherence to UN arms embargos. Notably, all firms involved in the manufacture, export, or brokering of USML items must register with the DDTC and pay an annual fee.

The DDTC at the Department of State is responsible for the administration of the AECA. However, the Department of State has faced significant budgetary cuts over the years, which have affected the administration of the AECA by the DDTC negatively. Critics of the administration suggest that the DDTC experiences delays and has a backlog of unprocessed license applications (Ferguson and Paul 2014, 6). Because of the DDTC backlog, National Security Presidential Directive (NSPD-56) was enacted to require license applications to be processed within 60 days. (Ferguson and Kerr 2014, 6).

Essentially, the DDTC does not have a defined timeline for the license application process.

Unlike the EAA that relies on penalties explicated in the International Emergency Economic Powers Act, the AECA has a set of enforcement penalties of its own. The AECA demands criminal penalties of approximately \$1 million, a 20-year prison term or both in case of a violation. Additionally, the AECA approves civil penalties of approximately \$500,000 followed by prohibition from future exports. Essentially, the enforcement of the AECA by the DDTC relies on the collaboration of the agency with the Defense Security Service, Customs and Border Protection, and Immigration and Customs Enforcement Units, as well as the Department of Homeland Security. However, Brown (2008, 10) asserts that diplomatic covers have allowed some buyers to use American weapons in ways that contravene its law. The Center for Human Rights (2013, 9) highlights the challenges that have emerged in relation to AECA definition of defense articles and FAA's definition of security assistance. Security assistance is limited to licenses for export of defense articles to armed forces and other internal security forces in foreign countries. Recent calls to transfer some articles from the USML to CCL have complicated the issue since this would mean that individuals located in non-eligible countries could acquire arms from the United States (Center for Human Rights 2013, 10).

E. THE SECURITY ASSISTANCE LIMITS

1. Current Legislation

The U.S. Security Assistance programs are founded on the U.S. public laws that provide guidance on the different appropriations and authorizations. Several programs require Congressional appropriations and authorizations. The programs include IMET, Foreign Military Financing Program (FMFP), peacekeeping operations (PKO) and the economic support fund (ESF). Additionally, the legislation addresses FMS, DCS, leases, and drawdowns on a reporting, oversight and reporting perspective. The Department of State is in charge of FMS, IMET, and FMS, but DSCA implements them (Rand and Tankel, 2015, 6). Two basic laws govern security assistance programs in the United

States: The Foreign Assistance Act of 1961 (FAA) and the Arms Export Control Act (AECA). The creation of the AECA and FAA is the result of past legislation that served as the foundation for the current provisions (Martin, 2012 1). Notably, the FAA prohibits the provision of assistance authorized by AECA and FAA to foreign forces if credible information shows that the forces have violated human rights grossly (Sharp 2015, 26).

The FAA (enacted in 1961) engrosses a multiplicity of provisions formerly contained in the Mutual Security Act of 1954. Currently, the FAA authorizes IMET, ESF, KPO and SA program management. Furthermore, with more than 700 sections in the FAA, most articles lie beyond the purview of SA program (Martin, 2012). The AECA was originally referred to as the Foreign Military Sales Act (FMSA) of 1968. Prior to 1968, the FAA acted as the major authority for FMS. The FMSA incorporated the FMS programs into a separate act. The FMSA changed to AECA through the Security Assistance and Arms Export Control Act of 1976 (Martin 2012, 2). Additionally, the Act revoked Section 414 contained in the Mutual Security Act of 1954 that provided International Traffic in Arms Regulations (ITAR) the right for commercial licensing. Consequently, the revocation placed the authority for DCS commercial licensing in AECA Section 38. “Section 38, AECA, Control of Arms Exports and Imports, which governs the licensing and sale of items through direct commercial channels. The AECA is the statutory basis for the conduct of FMS, funding for FMFP, and the control of commercial sales of defense articles and services” (Martin 2012, 2).

The AECA and FAA can undergo annual and biennial amendments through SA authorization acts (Martin 2006, 2). Currently, the Congress rely on Department of State, Department of Defense, International Narcotics Control Act (INCA) and Afghanistan Freedom Support Act (AFSA) to enact appropriations for SA. (Martin 2006, 2) Consequently, The House of Foreign Affairs Committee (HFAC) and Senate Foreign Relations Committee (SFRC) are accountable for authorization legislation for the security assistance programs (Martin 2012, 10).

Appropriations in the Foreign Operations, Export, Financing and Related Programs Appropriations Act (FOAA) are mandated for security assistance (Martin 2012, 1). FOAA acts as an appropriation act for a

multiplicity of programs including security assistance. The Continuing Resolution Authority (CRA) keeps the programs running in case a new financial year begins prior to the approval of the appropriation act. The CRA obligates funds against IMET, FMFP, KPO, ESF and other related SA programs (Martin 2012, 3).[The] FAA and AECA provide various conventional arms transfer authorities to the president. The post-cold war era decision-making criteria used by the administration for determining FAA and AECA-authorized arms transfers was promulgated by the White House on 17 February 1995 as presidential decision directive (PDD) 34, U.S. Conventional Arms Transfer Policy (CATP) (Defense Institute of Security Assistance Management 2007, 2–8).

Despite its promulgation in 1995, the CATP continues being used today by the U.S. government for the determination of arms transfer (Martin 2012, 8). The ESF and FMFM are the only SA programs identified explicitly by law. The appropriated funds for the programs may be availed for obligation after the FY expires for which they had been appropriated. Transfer of FMF to FMS trust fund entail expenditure transfers. The FMF funds remain available ad infinitum for disbursement after their transfer (Martin 2012, 8).

Several basic statutory provisions govern the management of SA programs. Most of the statutory provisions are drawn from the AECA and FAA. Section 1 of the AECA provides the statutory provisions the purpose of arms sales through security assistance programs. Consequently, the AECA authorizes the sale of defense articles to friendly nations to further the security objectives of the United States and in accordance with the UN Charter principles (Martin 2012, 8). Furthermore, Section 1 confers authority for the sales in the pursuit of the country's foreign policy. The AECA and FAA delegate power to the president regarding the sale and transfer of arms through the security assistance programs (Center for Human Rights 2013, 4). Congress amended some FAA provisions in 2011 to align them with DOD's Leahy Laws. The amendments reflect the increasing role of the DOD in security assistance. In 2014, Congress revised and extended the scope of DOD's provisions (Serafino et al.2008, 4).

2. Limits of Security Assistance

The FAA and AECA place several limits on security assistance, especially concerning Foreign Military Sales. AECA Section 21(i) demands that all FMS sales that could compromise U.S. self-preparedness should be kept to a minimum. Additionally, the AECA has conventional arms restraint in which the Congress should ensure that the value of FMS in one financial year does not exceed the current levels. The AECA prohibits the performance of combatant activities. On this note, the AECA dictates that any personnel performing services related to defense using articles sold through FMS shall not engage in combat. The limit also relates “to training and advising, which could engage U.S. personnel in combat” (Martin 2012, 8). The FOAA places limits on the assistance to security forces. According to the limits, the FOAA mandates that no funding will be appropriated to any country suspected of violating human rights. However, funding can be appropriated once the secretary of defense confirms and reports to Congress that corrective action has been taken to eliminate the problem (Martin 2012, 9).

The FAA also places some limits on advisory and training assistance. According to Section 515(b) of the FAA, advisory and training led by military personnel consigned to the management of security assistance overseas shall be kept minimum (Martin 10). Additionally, the section states that other military personnel not consigned to Section 515 of the FAA will provide such assistance. Furthermore, the FAA places prohibitions related to the training of police. Section 600 of the FAA dictates that the recipient countries shall not use any of the funds appropriated for the provision of advice, training, or financial support to other law enforcement agencies such as police departments and prisons. However, the limit does not apply to the training and assistance offered to maritime law enforcement agencies. Furthermore, the limit does not apply to countries with a long-standing tradition of democracy or countries with no constant pattern of violation of human rights. The FAA and AECA further declare that only individuals with a personnel level authorized by the DOD shall perform civilian and military security assistance.

Unless the president finds U.S. national security interests require otherwise, the acts prohibit the provision of security assistance to countries that support international terrorism, communist states, countries in default on loans authorized by the FAA in excess of six months, or countries with a history of engaging in illicit drug production. Furthermore, the United States prohibits the provision of aid to countries that directly or indirectly prohibit the transportation and delivery of humanitarian assistance (Section 6201 of FAA). Additionally, Section 110, P.L. 106–386 dictates that no security assistance will be offered to countries that have failed in combating human trafficking (Martin 2012, 12).

Several limitations under the AECA and FAA do not have the statutory authority for waivers by the president. For instance, Section 6 of the AECA states that the U.S. government shall not provide any security assistance to countries engaged in a constant pattern of harassment or intimidation against U.S. citizens. Section 620(t) of the FAA suggests that any country that severs diplomatic relations with America shall also have severed the relationship for the acquisition of security assistance. Section 505(g) of the FAA and Section 5 of the AECA prohibits the delivery of defense articles based on religion, race, sex, or national origin (Martin 2012, 13).

While the export control system safeguards the national security, the rigorous process involved in the State Department and Department of Defense complicates the process and may lead to the duplication of services. For example, Wiggenghorn observes that six departments at the Department of State must view the requests while five departments have to view the requests at the DOD. The United States has frequently imposed embargos on countries contravening the requirements. For example, the United States imposed an arms embargo on Zimbabwe because of its pattern of disregarding the rule of law and abusing human rights.

3. The National Defense Authorization Act

The National Defense Authorization Act (NDAA) undergoes regular changes each financial year. Section 106 of the FY2010 NDAA has become a key area of interest

for the 113th Congress. The statute offers “authority to the Secretary of Defense to train and equip foreign military and maritime forces” (Serafino 2010, 1a) for two reasons. First, the training and equipping facilitate the performance of counterterrorism operations by foreign military and maritime forces. Second, foreign governments are encouraged to support stability where there are U.S. operations (Serafino 2010, 1a). Section 1206 has undergone frequent extension since its enactment as a temporary authority in 2005. The NDAA has been used for many years for the funding of a multiplicity of programs and activities including the purchase of equipment and training for the enhancement of maritime security capacity in foreign nations (Serafino 2010, 1a).

Nevertheless, the decision to grant authority to the DOD under Section 1206 of NDAA remains controversial. Section 1206 has become the first key authority for the DOD used for equipping and training foreign national military forces. The statute broke the norm set almost 50 years ago. Some members of Congress have supported the statute claiming that the authority will necessitate combatant commanders to respond to threats instead of engaging in robust and costly military actions. Conversely, others have questioned the ability of the DOD in using the funds effectively and appropriately. Additionally, opponents claim the statute undermines the Secretary of State authority to ensure consistency of the U.S. foreign policy (Serafino 2008, 1a).

The NDAA for FY2015 provides the tools and resources the military requires for the provision of a strong national defense. The act aims at securing the United States against extant and emergent threats. Consequently, the NDAA authorizes the appropriation of funds needed by the military to secure the nation against threats. The appropriations include a package of \$577.1 billion aimed for national defense programs. Additionally, the act reduces the strategic risks caused by the sequestration through the restoration of \$818 million in cuts for the readiness accounts in military services. The act also aims at enhancing the capabilities of the United States and its allies against terrorist organizations such as al Qaeda and ISIL. Consequently, Congress authorized \$5 billion as requested by the president for the continuation of operations against ISIL. Additionally, the NDAA demands the training and equipping of Iraqi and Syrian forces (Messer 2015, 2).

The DOD had negligible concern for security assistance and ignored its ability to increase U.S. military capabilities and improve national security (Serafino 2010, 4). Essentially, the DOD did not consider the training of foreign military forces as a task for the general purpose of the U.S. military forces. Much of the training was conducted under the authority of the Department of State. However, the perspective toward training foreign militaries through security assistance programs started changing after the 9/11 attacks. Officials in the DOD started regarding the defeat of terrorists in the countries where they prepare as a core issue for the U.S. national security. The DOD recognizes that groups who lack knowledge and cultural sensitivity fuels counterterrorism operations in other countries (Serafino 2008, 67). Some officials in the DOD realized the need to bestow the leading roles on the foreign military forces in the accomplishment of such objectives. The Department of Defense stated that the Department of State lacked the requisite capabilities and expertise for the conduction of effective counterterrorism operations. Additionally, the DOD stated that the processes under the traditional training and equipment programs were cumbersome and slow to mitigate the emerging threats (Serafino 2008, 2).

As stated earlier, the DOD developed the Global Train and Equip proposal to cater for the shortcomings (Serafino 2010, 3a). The Department of Defense aimed at supporting foreign military forces to mitigate terrorism and “build the capacity of legitimate states to provide security within their sovereign territory to prevent terrorists in other countries” (Serafino 2008). The proposal required the concurrence of the Department of State. Concurrently, the perspective on training of foreign military forces through security assistance programs started evolving. “Former Secretary of Defense Robert Gates asserted that training foreign forces is a military mission for U.S. general purpose forces” (Serafino 2008). The DOD requested a special emergency authority of Section 1206 of the NDAA FY2006, which the Congress granted. The Secretary of Defense stated that building partner capacity in the fight against terrorism was a vital military requirement.

Despite the dual purpose of Section 1206, almost all the funding under the section provided equipment and training for counterterrorism in FY2009. The equipment included communication systems, reconnaissance and surveillance systems, ambulances, trucks, ambulances, and other vehicles. Additionally, the funding provided small arms, aircrafts, night vision goggles and clothing. In FY2010, Section 1206 of the NDAA started providing funding for training and equipping military forces for stability operations.

Section 1206 of the FY2015 NDAA is “funded from the DOD’s Operations and Maintenance (Operations and Maintenance) account” (Serafino 2014, 4). Currently, the limit for spending for security assistance under Section 1206 is \$350 million. “The FY2014 NDAA states that no more than \$262.5 million of FY2015 funds may be obligated or expended on Section 1206 programs until the Secretary of Defense, with the concurrence of the Secretary of State, reports on proposed planning and execution of programs” (Serafino 2014, 5). The Secretary of Defense has the authority to transfer or use defense services, articles, or training for security assistance to a foreign country (Serafino 2014, 22). The provision provides the Secretary of Defense with the authority to fund the Department of State or other federal agencies involved in security assistance (Serafino 2014, 23).

F. THE GLOBAL PERSPECTIVE

1. The United States

From a security framework perspective, security assistance programs aim at strengthening the military and security institutions of U.S. allies and partners. The core goals of the programs include the prevention of internal security threats, insurgency, and deterrence of regional adversaries, defeating terrorist networks and furthering U.S. foreign policy. According to Adams and Williams (2011, 27), the approach ensures internal security and aligns U.S. security with that of the allies and partners through the development of operational links with the U.S. forces. However, conventional concerns regarding this approach include the “ungoverned spaces” (Adams and Williams 2011, 27)

in which terrorists could find refuge and conduct training and preparation of attacks against the United States and its allies. Adams and Williams (2011, 28) assert that the framework has narrow and limited goals for security assistance programs. Essentially, the framework facilitates the development of military-to-military relationships and development of forces in the countries in which the United States cannot make deployments. Therefore, sustainable security is a secondary goal to immediate requirements for security assistance, which require stronger security forces. The perspective of the DOD on security assistance entails training, equipping, advising, and assisting, the defense forces of the recipient countries to increase proficiency in the provision of security within their borders.

Within the security perspective, the DOD has the requisite capabilities and can acquire statutory flexibility. Additionally, the DOD is viewed as having the capability to raise funds for the implementation of the security assistance programs because it can effectively link the programs with its military missions and requirements. Essentially, the Iraq and Afghanistan security assistance programs are built on this perspective (Adams and Williams 2011, 28). The DOD considers that building the capability globally as one of its core duties. The DOD seeks an extension of its coverage beyond the military forces to internal security forces, border protection, and even police.

From this perspective, the DOD is considered as “a logical lead in the structure and funding the security assistance portfolio” (Adams and William 2011, 28). It becomes the major player in conceptualizing, establishing and implementing the various programs as well as deeming, which countries will benefit most from those programs support (Adams and Williams 2011, 29). Essentially, the roles link to the core mission of creating partnerships with allies and partners for security purposes. The delegation of the authority through Section 1206 of the NDAA shows that Congress considers the department as having crucial contacts, flexibility, fundraising ability, and personnel for the execution of the programs. Additionally, the perspective shows that the foreign policy objectives of the country are guaranteed through the concurrence of the Secretary of Defense.

However, the reach and diversity of these DOD activities in shaping the security environment can and does often produce mixed results and reactions. At times in the Middle East, and earlier in Japan, the presence of American soldiers has inspired opposition ranging from demonstrations to bombings. On other occasions, as Adams and Williams, point out, foreign forces are empowered “that can operate effectively but are disconnected from the need to strengthen local governance” (2011, 31). The reality, unwelcome to some, is that the military is not especially suited or equipped for the task of governance:

A functioning, well-funded, and armed local security force also may create distortions in the path local governance and development should take. Sustaining that force may divert scarce local fiscal resources from other investments in effective administration, social, and economic development. Alternatively, if a balanced governance and development agenda is to be pursued, the creation of expensive security forces could lead to long-term dependence on U.S. funding. (Adams and Williams, 2011, 29)

With the move to confer continuing greater authority on the DOD, a gaping disparity could emerge between the rhetoric and reality of security assistance operations, as programs become narrower in focus and less effective in practice since foreign policy interests are governed by security considerations (Adams and Williams 2011, 30). At a time when American military dominance already seems evident to much of the world, it would be imprudent to suggest that the role of U.S. foreign policy is deteriorating. Similarly, the expansion of roles, funding, and missions for the DOD may lead all agencies and departments to conclude that DOD is operating only game in town. Adams and Williams (2011, 30) lament that this would lead to an increased drifting of funds toward the DOD “while the capacity of the civilian institutions continues” shrinking.

The current export controls affect security assistance significantly. The U.S. defense industry has consistently raised concerns regarding the benefits it can gain from security assistance under the current stringent controls. According to Dwyer et al. (2012, 1), effective export control should not only limit the dissemination of technologies into the global marketplace, but also consider how the distortions in the control-induced marketplace hinder innovation in the industry. Many for-profit and non-profit space

communities consider the current controls as ineffective since they limit research and commercial activities in the industry. In essence, the manufacturers cite the complexities of licensing before engaging in Direct Commercial Sales and other activities within security assistance programs. The manufacturers are not fully encouraged by the licensing process because, it undermines the security assistance programs and benefits to the U.S. population (Dwyer et al. 2012, 6). Furthermore, other manufacturers suggest that the inflexibilities of the current policies undermine their capability of engaging actively in supporting the security assistance programs.

2. United States Allies and Partners

The perception of security assistance among the allies and partners differs from the view maintained by different departments and agencies in the United States. Despite the stringent requirements and regulations on the transfer and monitoring of arms, many countries continue seeking partnership with the United States for security assistance. According to Shapiro (2012, 31), the United States engaged in DCS with foreign countries totaling \$10 billion in 2012. Additionally, the Directorate for Defense Trade Controls processed more than 83,000 licenses for the commercial export of defense articles. Foreign Military Sales accounted for \$60 billion.

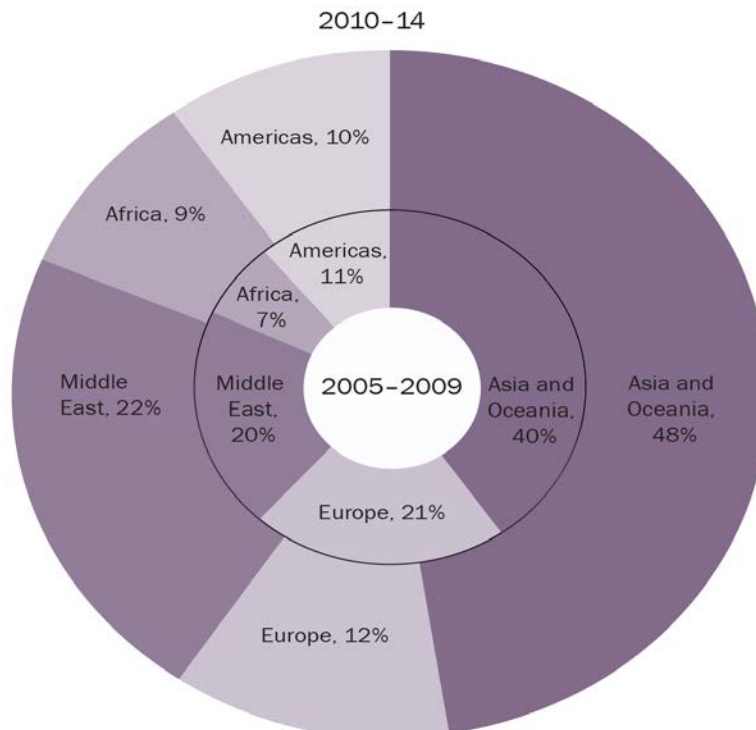
As noted earlier, the DCS and FMS fall under the category of the programs governed in the security assistance portfolio. The increased trade between the United States and foreign nations illustrates that the allies and partners consider the security assistance programs as critical in building domestic security and defense capabilities. Essentially, the allies and partners consider security assistance programs as crucial programs for the modernization of their military capabilities. The perspective among the allies and partners regarding the security assistance programs relates to the preference the customers choose. Foreign countries or organizations may choose to use DCS or FMS based on several considerations. The considerations include performance, system costs, delivery schedule, interoperability, cycle logistics support, and industrial utilization. The FMS option offers countries an effective way of leveraging the extant DOD contracts leading to lower prices. The advantage of the security assistance programs to the foreign

countries is that it allows the countries to increase their military capability through a multiplicity of strategies. For example, a country can opt to acquire EDAs from the DLA, which are expected to cost lower than new equipment and systems. Therefore, the partners and allies consider the security assistance programs as an effective strategy for the participation against global insecurity. The programs have helped the allies and partners in building internal capabilities and professionalism for the response to threats and contribution toward global peace and stability.

G. ARMS TRANSFER

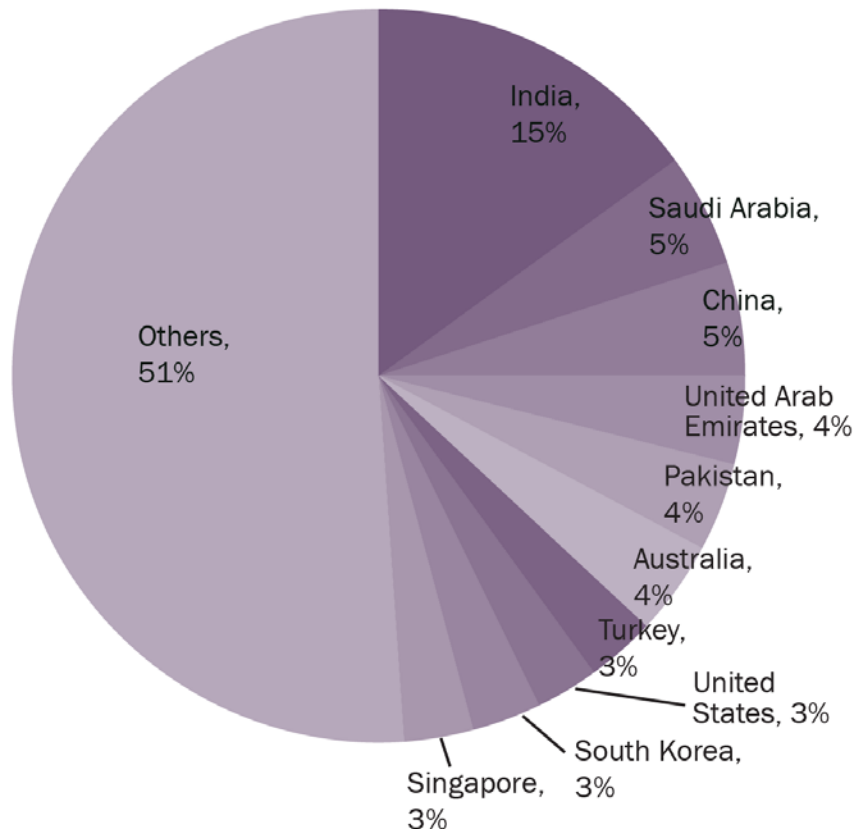
The following figures show the importance of the United States in arms transfer to the allies and partners.

Figure 4. The Imports of Major Weapon Systems, by Region 2005–2009 and 2010–2014 Percent of Global Share



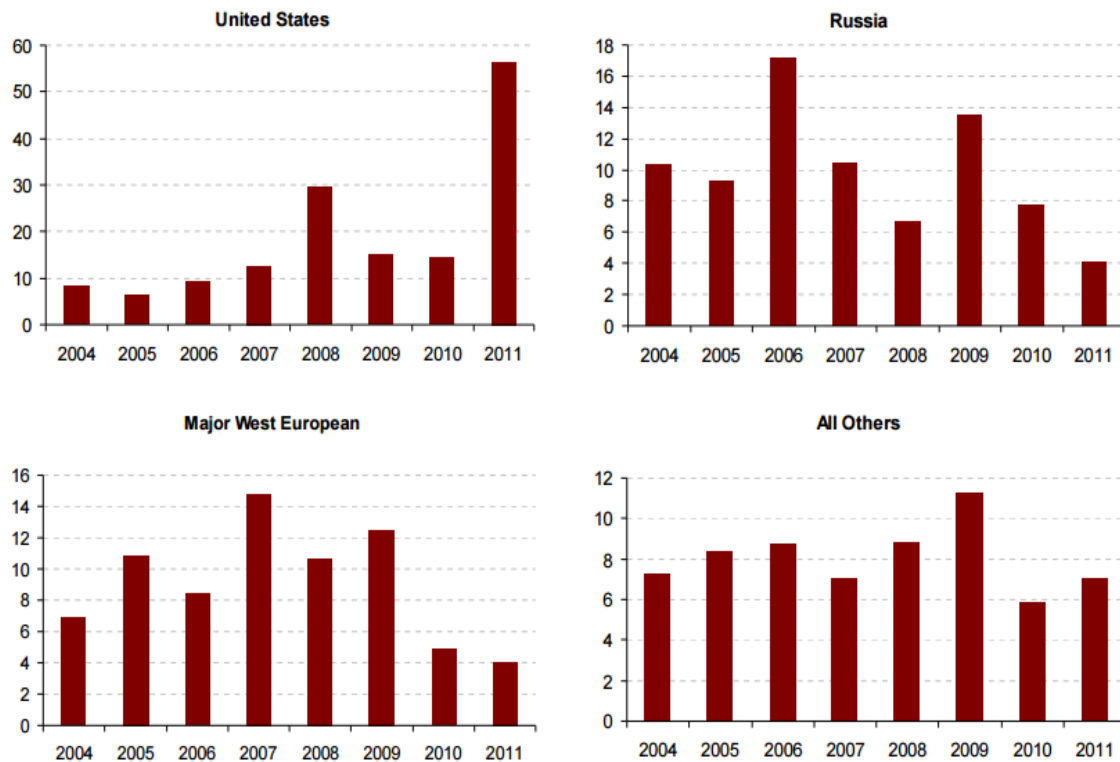
Source: Wezeman, Pieter D., and Siemon T. Wezeman. 2014. "Trends in International Arms Transfers." Solna, Sweden: Stockholm International Peace Research Institute. <http://books.sipri.org/files/FS/SIPRIFS1403.pdf>.

Figure 5. Top 10 Arms Importers for the Period 2010–14,
Percent Global Share



Source: Wezeman, Pieter D., and Siemon T. Wezeman. 2014. "Trends in International Arms Transfers." Solna, Sweden: Stockholm International Peace Research Institute. <http://books.sipri.org/files/FS/SIPRIFS1403.pdf>.

Figure 6. Comparison of U.S. and Other Major Suppliers' Arms Transfer Agreements



Source: Grimmett, Richard F, and Paul Kerr. 2012. *Conventional Arms Transfers to Developing Nations, 2004–2011* CRS Report No. R42678. Washington, DC: Congressional Research Service. <http://fas.org/sgp/crs/weapons/R42678.pdf>

H. SUMMARY

The chapter has offered a background of security assistance. Essentially, the chapter that delineated the status of the programs, the categories of security assistance, and the challenges facing the programs. Furthermore, it analyzed the agencies and regulations involved in security assistance. Additionally, the section has addressed the existing security assistance limits focusing on the current legislation and the National Defense Authorization Act (NDAA), as well as the global perspective on security assistance. The next section will present the findings from the secondary research conducted through a review of literature.

III. RESULTS AND DISCUSSION

A. QUALITATIVE DATA FROM LITERATURE

The study sought the understanding of the security assistance programs in the US. The accumulation of data relied on a qualitative approach based on the review of the extant literature and documentation regarding the issue. Chapter II leads to the identification of some common themes that warrant in-depth analysis. The findings can be categorized into three categories: the need for export control reforms, the need to address redundancies, and the future of the security programs.

1. Need for Reforms in Export Controls

The information accumulated above shows the reliance on AECA, ITAR, and EAA as the main laws governing export controls. Furthermore, the literature has shown that recent events led to the delegation of authority to manage security assistance programs under Section 1206 of NDAA of FY2006. As discussed earlier, the current mechanisms for export controls have several limitations. Consequently, the limitations lead to the need for reforms in the control of arms. Regulations such as ITAR among others have been identified as major constraints toward the development of trade in the defense sector in the United States. Consequently, the information suggests the need for incorporation of new strategies that could solve the limitations.

2. Redundancies in the Security Assistance Programs

The literature shows explicit presence of redundancies. Essentially, the redundancies relate to the multiplicity of agencies and authorities involved in security assistance. The main departments involved in the programs are the Department of Defense and the Department of State. However, the two departments have not streamlined their objectives and goals. Essentially, the departments lack alignment of their strategies and systems for managing and funding the programs. Until recently, the

departments did not engage in collaborative strategies for the accomplishment of the security assistance goals. The programs also entail a multiplicity of agencies with redundant authorities. The two departments have agencies that perform almost similar duties. In other cases, the duties of the agencies in each department contradict each other. For example, arms transfer requires licensing from agencies in the two departments. However, the agencies do not collaborate in effecting the licensing processes, which means that one department could license a transfer under one statute while the other agency could fail to sign based on another statute. Essentially, the redundancies relate to military services (role of DOD and DOS), multiple lines of authority (different agencies with contradicting or similar authority) and workforce.

3. The Future of Security Assistance

From the policies, the future of security assistance remains a crucial part of the U.S. national security and foreign policy goals. However, the information shows a form of contradiction in the roles of the departments (DOD and DoS) after the Congress empowered the DOD to engage in time and expense (T&E) activities. As seen in the literature, the DoS had the mandate of managing the security assistance programs. However, the delegation of authority to the DOD under Section 1206 of the NDAA may undermine the role of the Secretary of Defense. Additionally, the literature shows that the future of the security assistance programs may take a stronger security perspective while relegating the importance of the foreign policy perspective of the programs. The data depicts a yet-to-be known future of the programs based on the roles of the departments and agencies involved.

B. EXPORT CONTROLS

Currently, export controls rely on the AECA, ITAR, and EAA. The export control regimes control all exports regardless of whether the countries have an indigenous capability of producing such articles. Essentially, the acts were introduced to cater for the needs extant at that time. Only a few countries and companies had the capability of engaging in the development of such articles. Additionally, the controls maintained the

distinctness between the systems for military use and commercial use. However, the world has experienced significant changes leading to the loss of distinctiveness between commercial and military-use items. The BIS controls the export of dual-use items while the DDTC controls the transfer, export, and re-export of military-use items.

Under the current legislation, the two departments rely on two different acts. The Export Administration Act (EAA) governs the BIS, which has the authority to control the export and re-export of virtually all commodities not subject to any other jurisdiction. Recently, the powers of the BIS have increased to include oversight over the export and re-export of some military items. This control would be better placed within the DDTC, which is governed by on AECA and ITAR. Consequently, the export control regimes lead to complexities in licensing. The two departments may take contrasting views on the sensitivity of an item, leading to the prolongation of the licensing process. Therefore, the export regimes should move from the reliance on different control lists based on different structures and administered by two different departments.

The adoption of reforms would have several advantages in the export control processes. First, the regimes would ensure that the defense industry maintains a technical advantage through sheltering critical technologies from proliferation while also guaranteeing a competitive advantage in the international market (Martin 2012, 16). The reforms will also ensure the availability of new defense items and technologies and removal of items that no longer need control. The reforms will also help in the prioritization of the controls to increase flexibility in the licensing process. Lastly, the reforms will improve the prioritization of license applications.

As previously stated, the implementation of export control reforms would take several steps. Firstly, the reforms would aim at harmonizing the different departments involved in exports control. Most of the tasks would involve executive or legislative input. After the completion of the process, the country will have a single control list, a single IT system, a single agency for licensing, and a single agency for enforcement coordination (Hansson and Lowell 2010, 1–4).

C. REDUNDANCIES IN SECURITY ASSISTANCE PROGRAMS

As stated earlier, among the various security assistance agencies there are a number of redundancies in terms of personnel, services, legislation, and authority. Several agencies have duplicative or overlapping authorities. As stated earlier, the DoS has traditionally played key roles in the implementation of security assistance programs. However, the DoS and DOD have started having duplicative responsibilities in the programs. The DOD has become the major financier of the programs despite having little interest in the programs during their earlier days. The involvement of the DOD in the programs has undermined the authority of the Department of State despite the department being the primary planner and designer of the programs. Both departments fund the projects, although the funding from the Department of State has decreased over the years. The involvement of two departments without a clear objective or strategy for cooperation has led to insufficient coordination and duplication of resources.

Furthermore,, a multiplicity of agencies plays diverse yet overlapping roles in the programs. As indicated earlier, security assistance programs have a strategic relationship with export controls. The security assistance programs include DCS and FMS in which the BIS, DDTC, USASAC and other agencies may have significant roles associated with the licensing process. The BIS has acquired significant authority in recent days to control some military-use items despite of whether they are under EAA or ITAR regulation. However, the DDTC had a primary role in overseeing the export and re-export of military-use items through the power of the ITAR. Essentially, the licensing requirements of the ITAR differ significantly with those of the EAA. Consequently, the two departments may engage in redundant activities of licensing an item that could only have undergone licensing from only one of the agencies. The interagency strategy involved in the implementation of security assistance has acted as a setback for the programs because of ineffective coordination. The findings show the need for increased concurrency at the departmental level and integration of the agencies to have a single agency controlling the programs.

D. THE FUTURE OF SECURITY ASSISTANCE

As the threat to global security increased, the United States had to reconsider its strategies in security assistance. The changes occurred through the bestowment of authority to the DOD to fund and control the programs. Meanwhile, the role of the United States in security assistance through arms transfers has increased as depicted in the previously shown figures. However, the change toward the DOD being the controller of the programs has led to the lack of an effective oversight mechanism for the evaluation of the programs. The DOD has the capability to control and raise funds for the programs. However, the programs have a key role in the country's foreign policy objectives. As observed earlier, the DOD has a security perspective in designing and implementing the programs. Traditionally, the DOD has not had significant involvement in issues related to foreign policy. Consequently, the future of the programs may shift toward non-traditional activities since the DOD emphasizes on military training and equipping.

As indicated earlier, the United States has not reviewed the performance of the programs for several decades. Consequently, this could mean that the departments may not have met the objectives of the programs. The future of the programs depends on the implementation of an effective framework that considers both security and foreign policy goals. Additionally, the future depends on the effective structuring of the relationship between the Department of State and Department of Defense in their roles in security assistance.

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IV. CONCLUSION AND RECOMMENDATIONS

A. CONCLUSION

Security assistance programs play a crucial part in furthering the foreign policy objectives of the United States in addition to ensuring global peace and security. The issue of security assistance has a strategic relationship with export controls in which different departments and agencies play key roles. Essentially, the Department of Defense, Department of State, and Department of Commerce have crucial roles in the programs. The agencies mentioned will also be instrumental in the transformation and implementation to reform export controls and security assistance. However, the analysis shows that the current regimes in export controls have a detrimental effect on security assistance programs. Essentially, the regimes have limited the competitiveness of the defense industry. Furthermore, the reliance on multiple agencies for licensing increases the time required for licensing, which portrays the inefficiencies of the agencies. Consequently, it is essential for the departments and agencies to consider the adoption of reforms. As stated earlier, the agencies and departments should focus on aligning their objectives and strategies for the achievement of the national security and foreign policy goals.

The regulations used in export controls and security assistance were drafted long ago. However, changes have occurred that require reforms in the acts. More importantly, the reliance on multiple agencies is associated with redundancies. The redundancies imply weak governance in which the institutions are not integrated or do not share information sufficiently. While security assistance was traditionally a duty of the Department of State, the roles of the Department of Defense have increased in recent years. Consequently, this has blurred the boundary in the authority of each of the departments in managing security assistance programs. Additionally, the classification of items in the Commerce Control List has faced challenges as BIS and other agencies try to control the export of such items. Essentially, the multiple lines of authority have led to

challenges in the governance of export controls and security assistance programs. Fundamentally, the future of security assistance programs will rely on the roles taken by the State Department and the Department of Defense, as well as the associated agencies. From the literature, it can be inferred that the future is likely to take a military perspective based on the increasing role of the DOD in managing the programs. However, the future could increase “conflicts” between agencies unless effective reforms are adopted.

B. RECOMMENDATIONS

As suggested earlier, the current security framework adopted by the Department of Defense in security assistance may fail to address the foreign policy and security objectives. Consequently, the study recommends the adoption of a governance framework for implementing the security assistance programs. The framework would help in the creation of accountable, transparent, and honest forces (institutions) while maintaining the core focus on security. The governance perspective could help the United States in aligning its response to critical security scenarios in recipient countries without having to deploy its personnel. The reinforcement of the military capability of the recipient nations may have short-term outcomes, but may be counter-productive in the end. Therefore, the implementation of the security assistance programs should also focus on institutional leadership among the military personnel, especially in relation to programs such as IMET. Therefore, the following suggestions could help in the adoption of this recommendation:

- Reinforcement of civilian leadership in the SA programs
- DOD to maintain its role in the implementation of T&E programs
- Tasking and empowering the Department of State in implementing security assistance programs through increased funding
- Realigning the accounts and funding for security assistance program
- Consolidating the authorities responsible for all aspects related to security assistance.

LIST OF REFERENCES

- Adams, Gordon, and Rebecca Williams. 2011. *A New Way Forward: Rebalancing Security Assistance Programs and Authorities*. Washington, DC: Henry L. Stimson Center.
http://www.stimson.org/images/uploads/A_New_Way_Forward_Final.pdf.
- Braun, Virginia, and Victoria Clarke. 2006. "Using Thematic Analysis in Psychology." In *Qualitative Research in Psychology* 3: 77–101. <https://www.bridgersystems.org/>
- Bridger Systems. 2001. *OFAC: Policy & Procedure Guide*. Washington, DC: Office of Foreign Asset Controls.
<http://www.niada.com/PDFs/Publications/OFACGuide.pdf>.
- Brown, Michael. 2008. "Arms Export Control Act: Israel Breaches & U.S. Indulgence Result in Palestinian & Lebanese Civilian Casualties." Washington, DC: The Palestine Center. <http://thejerusalemfund.org/ht/a/GetDocumentAction/i/3061>.
- Bureau of Industry and Security. 2009. "FY 2009 Budget in Brief."
<http://www.osec.doc.gov/bmi/budget/09BIB/Bureau%20of%20Industry%20and%20Security.pdf>.
- Center for Human Rights. 2013. "Proposal to Relax Export Controls for Significant Military Equipment."
http://www.americanbar.org/content/dam/aba/administrative/individual_rights/jd_web_aba_chr_white_paper_on_proposals_to_relax_export_controls_for_significant_military_equipment_final.authcheckdam.pdf.
- Defense Institute of Security Assistance Management. 2007. "Security Assistance Legislation and Policy," in *The Management of Security Assistance*. Wright Patterson AFB, OH: Defense Institute of Security Assistance Management.
<http://www.disam.dsca.mil/pubs/DR/27th%20Greenbook.pdf>.
- Defense Logistics Agency. 2009. "Director's Guidance: Taking DLA to the Next Level." Fort Belvoir, VA: The Defense Logistics Agency.
<http://www.dla.mil/documents/directorsguidance.pdf>.
- Dwyer, Morgan, Gwen Gettliffe, Whitney Lohmeyer, Annie Marinan, Erik Stockham, Annalisa Weigel, and Kerri Cahoy. 2012. "The Global Impact of ITAR on the For-Profit and Non-Profit Space Communities." *DSpace@MIT*.
<http://dspace.mit.edu/handle/1721.1/80837>.

- Federal Register*. 2010. "Amendment to the International Traffic in Arms Regulations: Dual Nationals and Third-Country Nationals Employed by End-Users," vol. 75, August 11. <http://www.gpo.gov/fdsys/granule/FR-2010-08-11/2010-19833>.
- Ferguson, Ian F., and Paul K. Kerr. 2014. *The U.S. Export Control System and the President's Reform Initiative*. CRS Report No. R41916. Washington, DC: Congressional Research Service. <http://fas.org/sgp/crs/natsec/R41916.pdf>.
- Gates, Robert M. 2010. "Helping Others Defend Themselves." *Foreign Affairs*. May/June 2–6. <https://www.foreignaffairs.com/articles/2010-05-01/helping-others-defend-themselves>.
- Gilman, Derek. 2014. "Foreign Military Sales." Defense Security Cooperation Agency. http://www.dsca.mil/sites/default/files/final-fms-dcs_30_sep.pdf.
- Grasso, Valerie Bailey. 2014. *Defense Surplus Equipment Disposal, Including the Law Enforcement 1033 Program*. CRS Report No RS20549. Washington, DC: Congressional Research Service. <https://www.fas.org/sgp/crs/weapons/RS20549.pdf>.
- Grimmett, Richard F, and Paul Kerr. 2012. *Conventional Arms Transfers to Developing Nations, 2004–2011* CRS Report No. R42678. Washington, DC: Congressional Research Service. <http://fas.org/sgp/crs/weapons/R42678.pdf>.
- Hansson, Leigh T., and Michael J. Lowell 2011. Top Ten Things to Know about Export Control Reform. Association of Counsel. <http://www.acc.com/legalresources/publications/topten/export-control-reform.cfm?makepdf=1>.
- Hirschhorn, Eric L. 2010. *The Export Control and Embargo Handbook*. Oxford: Oxford University Press.
- Kozyulin, Vadim. 2009. *Transfer of Defense Technologies: Should They Be Included in the ATT?* Moscow: The Russian Center for Policy Studies. <http://www.unidir.org/files/medias/pdfs/background-paper-transfer-of-defense-technologies-should-they-be-included-in-the-att-vadim-kozyulin-eng-0-260.pdf>.
- Leon, Nate, Todd Paulson, and Geraldo Ferrer. 2013. "Disposition Services as a Supply Source: A DOD-Wide Opportunity." *Defense ARJ*. http://www.dau.mil/publications/DefenseARJ/ARJ/ARJ66/ARJ_66-Leon.pdf.
- Macuso, Mario (ed). 2012. *Fried Frank. ITAR Enforcement Digest*. New York: Fried, Frank, Harris, Shriver & Jacobson. <http://www.friedfrank.com/siteFiles/Publications/ITAR%20Enforcement%20Digest.pdf>.

- Martin, Kenneth W. 2006. "Fiscal Year 2006 Security Assistance Legislation and Policy." *The DISAM Journal* 25, 1–34
http://www.disam.dsca.mil/Pubs/Indexes/Vol%2028_2/Martin.pdf.
- McNerney, M., Jennifer D. P. Moroney, Peter Mandaville, and Terry Hagen. 2014. *New Security and Justice Sector Partnership Models: Implications of the Arab Uprisings*. Santa Monica, CA: RAND.
http://www.rand.org/pubs/research_reports/RR605.html.
- Messer, Luke. 2015. "H.R 1735, National Defense Authorization Act for Fiscal Year 2015." *Legislative Digest*.
<http://policy.house.gov/sites/republicanpolicy.house.gov/files/Legislative%20Digest%20-%20H.R.%201735,%20National%20Defense%20Authorization%20Act%20for%20Fiscal%20Year%202016.pdf>.
- Office of the Inspector General. 2009. "*Controls Over Excess Defense Articles Provided to Foreign Governments*." Report No. D-2009-052. Washington DC: Office of the Inspector General, Department of Defense.
<http://www.dodig.mil/audit/reports/fy09/09-052.pdf>.
- Ordway, John A. 2009. "U.S. International Traffic in Arms Regulations." <http://www.cistec.or.jp/english/service/report/0802ITARarticleforCISTEC.pdf>.
- Peccei, Roberto. 2002. "OFAC, Patriotic Act and ITAR Regulations and Research: Balancing Homeland Security with Scientific Communication." Memorandum Office of the Chancellor, UCLA.
http://www.research.ucla.edu/ocga/memos/memo_OFAC.htm.
- Rand, Dafna H., and Stephen Tankel. 2015. "Security Cooperation & Assistance: Rethinking the Return on Investment." Washington, DC: Center for New American Security http://www.cnas.org/sites/default/files/publications-pdf/CNAS%20Report_Security%20Cooperation_FINAL.pdf.
- Rennack, Dianne E., and Susan Chessier G. 2011. *Foreign Assistance Act of 1961: Authorizations and Corresponding Appropriations*. CRS Report No. R40089. Washington, DC: Congressional Research Service.
<https://www.fas.org/sgp/crs/row/R40089.pdf>.
- Rennack, Dianne E., and Robert Shuey D. 1998. *Economic Sanctions to Achieve U.S. Foreign Policy Goals: Discussion and Guide to Current Law*. CRS Report No. 97–949. Washington, DC: Congressional Research Service.
<http://fas.org/man/crs/97-949.pdf>.

- Reynolds, Ronald. 2010. "The Management of Security Assistance." Defense Institute of Security Assistance Management. <http://www.celog.aer.mil.br/FMS/Publicacoes/GREENBOOK%2029th%20Edt.pdf>.
- Serafino, Nina M. 2008. *The Department of Defense Role in Foreign Assistance: Background, Major Issues, and Options for Congress*. CRS Report No. RL34639. Washington, DC: Congressional Research Service. <http://fpc.state.gov/documents/organization/110406.pdf>.
- Serafino, Nina M. 2010. "Section 1207" *Security and Stabilization Assistance: Background and Congressional Concerns*. CRS Report No. RS22871. Washington, DC: Congressional Research Service. <https://www.fas.org/sgp/crs/natsec/RS22871.pdf>.
- Serafino, Nina M. 2014. *Security Assistance Reform: Section 1206 Background and Issues for Congress*. CRS Report No. RS22855. Washington, DC: Congressional Research Service. <https://www.fas.org/sgp/crs/natsec/RS22855.pdf>.
- Serafino, Nina, June Beittel, Lauren Blanchard, and Liana Rosen. 2014 "Leahy Law Human Rights Provisions and Security Assistance: Issue Overview." CRS Report No. R4331. Washington, DC: Congressional Research Service. <https://www.fas.org/sgp/crs/row/R43361.pdf>.
- Shapiro, Andrew J. 2012. "A New Era for U.S. Security Assistance." *Washington Quarterly* 35: 23–35. <http://csis.org/files/publication/twq12FallShapiro.pdf>.
- Sharp, Jeremy M. 2015. *Egypt: Background and U.S. Relations*. CRS Report No. RL33003. Washington, DC: Congressional Research Service. <https://www.fas.org/sgp/crs/mideast/RL33003.pdf>.
- Turner, FD. 2012. "United States Army Security Assistance Command (USASAC) Organization, Mission, and Functions." USASAC Regulation 10–1, 2012. http://portal.fmskcs.com/projects/References/usasacReg/USASACR_10-1.pdf.
- U.S. Army Security Assistance Centre (USASAC). (n.d)."Theme of the Quarter" <http://www.disam.dsca.mil/pubs/Vol%203-1/Lightner.pdf>.
- U.S. Department of Commerce. 2010. "Introduction to Commerce Department: Export Controls." Bureau of Industry and Security. https://www.bis.doc.gov/index.php/forms-documents/doc_view/142-eccn-pdf
- U.S. Department of Commerce and Federal Aviation Administration. 2008. "Introduction to U.S. Export Controls for the Commercial Space Industry." Washington DC: FAA and DOC. https://www.faa.gov/about/office_org/headquarters_offices/ast/media/Intro%20to%20US%20Export%20Controls.pdf

- U.S. Department of the Treasury. 2015. "Office of Foreign Assets Control – Sanctions Programs and Information." <http://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>.
- U.S. Government Accountability Office. 2012. *Export Controls: U.S. Agencies Need to Assess Control List Reform's Impact on Compliance Activities*, GAO-12-613, Washington, DC: U.S. Government Accountability Office. <http://www.gao.gov/assets/600/590287.pdf>.
- U.S. Government Accountability Office. 2007. *High-Risk Series: An Update*, GAO-07-310, Washington, DC: U.S. Government Accountability Office. <http://www.gao.gov/new.items/d07310.pdf>.
- Walters, Tome H. 2001. *Customer Guide to U.S. Security Assistance Programs*. Defense Security Cooperation Agency. <http://www.dsca.mil/sites/default/files/CustomerGuideImages/2014%20DSCA%20Foreign%20Customer%20Guide.pdf>.
- Wezeman, Pieter D., and Siemon T. Wezeman. 2014. *Trends in International Arms Transfers*. Solna, Sweden: Stockholm International Peace Research Institute. <http://books.sipri.org/files/FS/SIPRIFS1403.pdf>.
- Wiggenhorn, Joan, Kimberly Gleason, and Manoharlal Sukhwani. 2014. "An Exploratory Examination of Export Control Act Violations." *International Business Research* 7 (2014): 101 <http://d-scholarship.pitt.edu/24879/1/33187-120084-1-PB.pdf>.

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